

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

OSCAR DEAN CAMPBELL,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-06-0595-HE
)	
MEDICAL ADMINISTRATOR)	
HALVERSON, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Oscar Campbell, a *pro se* state prisoner, instituted this action pursuant to 42 U.S.C. § 1983 and Oklahoma's Governmental Tort Claims Act, 51 Okla. Stat. § 151 et. seq., alleging violations of his constitutional rights. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was re-referred¹ to Magistrate Judge Robert E. Bacharach, who issued two Reports and Recommendations dated February 16, 2007. Magistrate Judge Bacharach recommended that plaintiff's motion for preliminary injunction be denied and that defendants' motion to dismiss be granted because plaintiff failed to exhaust his administrative remedies.

Plaintiff has submitted an objection to the Reports and Recommendations² and has also submitted other evidence which he believes supports his case. Most of the issues raised by plaintiff's objection are essentially the same as those thoroughly considered and addressed

¹This matter was re-referred to Magistrate Judge Bacharach after the United States Supreme Court issued its decision in Jones v. Bock, Nos. 05-7058 & 05-7142, 2007 WL 135890 (Jan. 22, 2007).


²Plaintiff titled his objection "Objection to Defendants (sic) Report and Recommendation" but it is clearly intended to object to the Magistrate Judge's Reports and Recommendations.

by the Magistrate Judge in his Reports and Recommendations. Plaintiff does point to the fact that, in a prior Report and Recommendation, Magistrate Judge Bacharach stated “At best, these documents would reflect exhaustion only on the claim involving a failure to conduct an x-ray before medical personnel jerked and tugged on the Plaintiff’s shoulder.” The court concludes that the quoted statement is not inconsistent with the conclusion ultimately reached by Judge Bacharach, that exhaustion of administrative remedies has not occurred. The evidence as reflected in the submissions of the parties supports this determination.

Having considered the plaintiff’s objections and additional evidence and having conducted a de novo review, the court concurs with the Magistrate Judge’s conclusions. Accordingly, the court **ADOPTS** the Reports and Recommendations and **DENIES** plaintiff’s motion for preliminary injunction [Doc. #18] and **GRANTS** defendants’ motion to dismiss [Doc. #28], dismissing plaintiff’s complaint without prejudice.

IT IS SO ORDERED.

Dated this 20th day of March, 2007.



JOE HEATON
UNITED STATES DISTRICT JUDGE